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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

Amendment of the Commission's Rules
Regarding Installment Payment Financing for
Personal Communications Services (PCS)
Licensees

WT Docket No. 97-82

REPLY COMMENTS OF SPRINT CORPORATION

Pursuant to the Further Notice of Proposed Rule Making¹ released by the Federal Communications Commission ("FCC" or "Commission") on October 16, 1997, Sprint Corporation ("Sprint")² submits the following reply to comments addressing the implementation of the Commission's C Block debt restructuring and financing relief options.

I. INTRODUCTION

In its *Second R&O*, the Commission offered C Block licensees the options of (1) disaggregating their spectrum for surrender and reauction, (2) surrendering all of their licenses in return for amnesty on all of their outstanding debt, (3) prepaying their debt on a major trading area basis, or (4) retaining the status quo. In the FNPRM the Commission proposed various procedures for the reauction of spectrum surrendered under three of the options. Sprint opposes Nextwave Telecom Inc's. ("Nextwave") proposal filed in the initial

¹ *Amendment of the Commission's Rules Regarding Installment Payment Financing For Personal Communications Services (PCS) Licensees*, WT Docket No. 97-82, Second Report and Order and Further Notice of Proposed Rule Making, FCC No. 97-342 (October 16, 1997) ("Second R&O" and "FNPRM").

² Sprint Corporation holds a 40% general and limited partnership interest in Sprint Spectrum, L.P. which holds 30 A and B Block Personal Communications Service ("PCS") licenses. In addition, Sprint holds 160 D and E Block licenses through its wholly-owned subsidiary SprintCom, Inc.

comment round that all surrendering licensees be allowed to rebid on any surrendered license.

II. PARTICIPANTS IN THE REAUTION SHOULD BE BARRED FROM BIDDING ON SPECTRUM THAT THEY SURRENDERED UNDER ANY OF THE COMMISSION'S C BLOCK DEBT RELIEF OPTIONS

The Commission's amnesty debt relief option, unlike the other relief options, allows a C Block licensee to reacquire spectrum it originally surrendered in return for relief from its debt obligations. Nextwave argues that because the Commission provides no rational basis for distinguishing between licensees that choose the amnesty option and return some or all of their licenses and those that choose disaggregation or prepayment and return some or portions of their licenses,³ the Commission should allow surrendering licensees to bid on any surrendered license, regardless of the debt relief option they elect.⁴ Although Nextwave is correct that this differential treatment has no rational basis, its proposed solution would harm the integrity of the auction process and unjustly enrich licensees that take advantage of debt relief and later bid for the same spectrum at a likely discount.⁵

In deciding that C Block licensees choosing disaggregation or prepayment may not reacquire surrendered licenses in a subsequent auction, the Commission expressly noted that allowing these licensees to bid on the same surrendered licenses in a reaution would unjustly enrich these licensees and discriminate against other licensees and auction participants. Reacquisition of spectrum by licensees choosing amnesty, especially where

³ Comments of NextWave Telecom Inc. at 3 (November 13, 1997). Under the Commission's amnesty build-out exception, licensees are permitted to pick and choose as to which licenses are retained and which are returned. In this regard, amnesty is no different from the disaggregation and prepayment options. *Second R&O* at ¶ 57.

⁴ *Id.* at 4.

⁵ Sprint also opposes Nextel Communications, Inc.'s proposal to open the C Block reaution to all bidders. Nextel Comments at 7-8. Nextel's proposal would virtually ensure that small businesses would have little or no opportunity to participate in the PCS industry and would represent a drastic *post hoc* rewriting of the Commission's designated entity rules. The Commission cannot consider seriously such a self-serving proposal.

the build out exception is taken, however, is equally likely to produce these effects.

Nextwave provides no evidence to contradict this conclusion. The Commission should bar all C Block licensees, including those choosing the amnesty option, from reacquiring their surrendered spectrum in a reauction or the secondary market.⁶

As Sprint argues in its Petition for Reconsideration filed in this proceeding,⁷ C Block licensees choosing amnesty may find that forfeiture of their down payments will be more than offset by the steep discounts at which that same spectrum may be reacquired in a subsequent auction. Thus, a licensee may profit substantially from its failure to live up to the commitments it undertook when it won the original auction. This result not only enriches defaulting licensees unjustly, but unfairly discriminates against those entities, including other C Block licensees, that have made timely license installment payments or that dropped out of the auctions when the bidding exceeded their financial capability.⁸

Allowing licensees that choose the amnesty option to rebid in their surrendered markets, undermines the auction process by encouraging participants to bid without regard to financial ability or market realities, knowing that they can surrender their licenses if their bids prove to be imprudent and rebid at likely lower prices in a reauction. If bidders are not deterred from distorting the auction process in this way, other participants cannot safely rely on the auction structure and rules established by the Commission and the value of the Commission's spectrum auction initiative is lost.⁹

⁶ Sprint does not disagree with the Commission's determination that C Block licensees that surrender some of their spectrum may bid in subsequent auctions of other licenses.

⁷ See Sprint Corporation Petition for Reconsideration, WT Docket No. 97-82, (November 24, 1997).

⁸ The unfairness to other C Block licensees is aggravated by some licensees' inability to take advantage of the amnesty option because of contractual obligations, financing arrangements, service requirements and the like. *Cf.*, DigiPH Comments at 2.

⁹ By permitting defaulting licensees to abandon spectrum and reacquire it at a discount, the Commission undermines the credibility of its auction process by granting dramatic debt reduction of the kind the Commission expressly claims to have denied.

Therefore, the Commission must reject Nextwave's proposal and treat licensees electing the amnesty option like those licensees electing other relief options, *i.e.*, bar them from bidding on spectrum that they have surrendered.

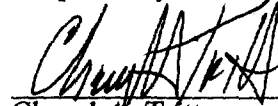
III. CONCLUSION

The *Second R&O* seeks to accommodate the demands of defaulting licensees for debt relief without compromising the fairness and integrity of the auction process. The proposals by Nextel and Nextwave would upset this delicate balance. As Senator John McCain (R-AZ) has noted, the Commission's decisions on C Block relief must not "adversely impact the integrity of the auction process or the confidence that parties would have in the stability of the Commission's auction rules."¹⁰

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(Footnote continued from previous page)

See *Second R&O* at ¶ 19 ("Similarly, we do not wish to adopt proposals that result in a dramatic forgiveness of the debt owed. . . . [W]e believe that is [sic] would be very unfair to other bidders, and would gravely undermine the credibility and integrity of our rules.").

¹⁰ *Ex Parte* Letter from the Honorable John McCain (September 18, 1997).

CERTIFICATE OF SERVICE

I, Kathryn M. Stasko, do hereby certify that the foregoing **REPLY COMMENTS OF SPRINT CORPORATION**, has been furnished, via hand delivery on this 24th day of November, 1997, to the following:

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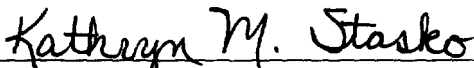
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